

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES COWEN, JOHN COWEN and)
LUKE COWEN)
Plaintiffs)

v.)

CIVIL ACTION NO. _____

MARCO LIMA, CRAIG LANDRY)
Defendants)

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. Plaintiff James Cowen (“James Cowen”), resides in the Town of Mendon, Worcester County, Massachusetts.
2. Plaintiff John Cowen, Jr., (“John Cowen”) resides in the Town of Hopedale, Worcester County, Massachusetts.
3. Plaintiff Luke Cowen, (“Luke Cowen”) resides in the Town of Hopedale, Worcester County, Massachusetts.
4. Defendant Marco Lima (“Lima”), resides in the Town of Hopedale, Worcester County, Massachusetts.
5. Defendant Craig Landry (“Landry”), resides in the Town of Uxbridge, Worcester County, Massachusetts.

FACTS

6. Each of the previous paragraphs is incorporated in this section as if fully set forth herein.
7. At all times pertinent hereto Lima and Landry each acted as set forth herein in his capacity as a sworn police officer of the Town of Hopedale Police Department pursuant to the statutes, ordinances, and regulations of the Commonwealth of Massachusetts and the ordinances and regulations of the Town of Hopedale.
8. On November 26, 2015, Lima and Landry responded to 17-19 Peace Street, Hopedale, Massachusetts, as a result of a reported loud domestic disturbance at that location, where the plaintiffs and numerous members of their extended families had gathered at the homes of John Cowen and of Janice Cowen – the mother of John and James – to celebrate Thanksgiving.

9. On arrival at the location John Cowen and other family members met Lima and Landry in front of the residences; the disturbance had ceased, there no violent action taking place and no reasonably perceptible threat of violence or of harm to any person.
10. John Cowen explained to the officers that he and Luke Cowen, his son, had gotten into a heated verbal altercation, that had ended and that Luke Cowen was then in the John Cowen home.
11. No one present with the officers was injured, nor was there any report to them of injury or of any request for medical assistance.
12. No sounds of tumult, violence, threats, or commotion of any kind emanated from either the Janice Cowen Home, the John Cowen home or from the adjacent grounds.
13. At that time and place Lima claimed he had to see Luke Cowen and that to do so he must enter John Cowen's residence, and he moved toward the porch leading the residence door as John Cowen objected and peacefully tried to dissuade the officer from entering his home.
14. At no time did Lima ask John Cowen to summon Luke Cowen outside the home.
15. On information and belief at that time Lima had decided to arrest Luke Cowen, notwithstanding that there was no probable cause to do so.
16. As John Cowen moved toward the door of his home alongside Lima while peacefully remonstrating with him not to enter the home, Lima used excessive and unnecessary force against him when without cause or legal excuse he assaulted and battered John Cowen by shoving him forcefully so that he fell to the ground.
17. Immediately thereafter, at that location Landry used excessive and unnecessary force against John Cowen when without cause or legal excuse he assaulted and battered John Cowen with an electronic shocking device or Taser and arrested him.
18. At the same time and place, when James Cowen exited the porch and approached peacefully while verbally questioning Lima's use of force against John Cowen, Lima assaulted, tackled, battered, and injured James Cowen without legal cause or excuse when he grabbed Cowen by the right upper right arm with sufficient force to cause extensive bruising, seized him by the neck, forced him to the ground and kned him in the back and injuring him in the back and the right arm.
19. At no pertinent time was there any reasonably perceptible danger of any harm to any person by James Cowen or John Cowen such as would justify Lima and Landry's uses of force against either of them.

20. Lima falsely claimed James Cowen had grabbed him to justify his use of force against James.
21. Lima and Landry both falsely reported that prior to getting shoved by Lima John Cowen acted in a menacing manner toward Lima.
22. Landry falsely claimed that John Cowen lunged at and collided with Lima's back as Lima was taking James Cowen to the ground just before Landry tazed John Cowen and handcuffed him.
23. Lima, by falsely claiming that James Cowen had physically assaulted him, caused a charge of assault and battery on a police officer to be brought and prosecuted against James Cowen.
24. Lima and Landry falsely and maliciously claimed that John Cowen had menaced and assaulted Lima and caused charges of assault and battery on a police officer, disorderly conduct, and resisting arrest to be brought and prosecuted against John Cowen.
25. At the instance of Lima and Landry Luke Cowen was arrested and charged with domestic assault and battery, assault and battery on a police officer and resisting arrest.
26. On September 12, 2016, the said criminal charge against James Cowen was dismissed at the request of the Commonwealth.
27. The charges against John Cowen and Luke Cowen were dismissed on condition of their agreements to pretrial probation. Their motions to vacate those dispositions are pending before the Milford District Court.

COUNT I

Lima and Landry

42 USC §1983 excessive and/or unnecessary force

James Cowen and John Cowen

28. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
29. By assaulting James Cowen and John Cowen as aforesaid, Lima and Landry violated the Cowen brothers' rights Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable seizure.

COUNT II

Lima and Landry

Assault and Battery

James Cowen and John Cowen

30. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

31. By their conduct as set forth herein Lima and Landry did assault and batter John Cowen and Lima did assault, batter and injury James Cowen.

COUNT III
Lima and Landry
Massachusetts Civil Rights Act M.G.L. c. 12 § 11H
James Cowen and John Cowen

32. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
33. By their conduct as set forth herein Lima and Landry did threaten, intimidate and/or coerce John Cowen, or did attempt to do so, to prevent and deter him from peacefully objecting to police entry into his home.
34. By his conduct as set forth herein Lima did threaten, intimidate and/or coerce James Cowen, or did attempt to do so, to prevent and deter him from questioning or criticizing Lima's use of force against John Cowen.

COUNT IV
Lima and Landry
False Arrest
John Cowen and Luke Cowen

35. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
36. Lima and Landry by their conduct as set forth herein, did falsely arrest did John Cowen and Luke Cowen without probable cause.
37. The charge was dismissed at the request of the Commonwealth.

COUNT IV
Lima and Landry
Malicious Prosecution
James Cowen, John Cowen and Luke Cowen

38. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
39. Lima and Landry did cause and aid, abet and support, the malicious prosecution of the plaintiffs on baseless criminal charges which, as to James were dismissed, and as John and Luke, the ultimate result of dismissal is anticipated.

DEMANDS FOR RELIEF

James Cowen, the plaintiff in counterclaim hereby respectfully requests the following relief against Marco Lima, defendant in counterclaim:

1. All compensatory damages recoverable;
2. All punitive damages recoverable ;
3. All attorney's fees, costs and expenses allowable;
4. Any and all other relief as the Court deems just and proper;

PLAINTIFFS DEMAND A JURY TRIAL AS TO ALL CLAIMS STATED HEREIN

Respectfully submitted,
James Cowen, John Cowen, Luke Cowen
plaintiffs

/s/ Robert A. Scott
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